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COMMISSION ON HUMAN RIGHTS

SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND
PROTECTION OF MINORITIES

Fiftieth session

SUMMARY RECORD OF THE 29th MEETING

Held at the Palais des Nations, Geneva,
on Friday, 21 August 1998, at 3 p.m.

Chairman: Mr. GUISSÉ

later: Mr. FAN Guoxiang
(Vice-Chairman)

later: Mr. GUISSÉ
(Chairman)

CONTENTS

THE IMPLEMENTATION OF HUMAN RIGHTS WITH REGARD TO WOMEN:

(a) TRADITIONAL PRACTICES AFFECTING THE HEALTH OF WOMEN AND THE GIRL CHILD;

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CONTENTS (continued)

(b) THE ROLE AND EQUAL PARTICIPATION OF WOMEN IN DEVELOPMENT (continued)

CONTEMPORARY FORMS OF SLAVERY (continued)

HUMAN RIGHTS OF INDIGENOUS PEOPLES:

(a) INDIGENOUS PEOPLES AND THEIR RELATIONSHIP TO LAND (continued)

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING POLICIES OF RACIAL DISCRIMINATION AND SEGREGATION AND OF APARTHEID, IN ALL COUNTRIES, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES: REPORT OF THE SUB-COMMISSION UNDER COMMISSION ON HUMAN RIGHTS RESOLUTION 8 (XXIII) (continued)

FREEDOM OF MOVEMENT:

(a) THE RIGHT TO LEAVE ANY COUNTRY, INCLUDING ONE'S OWN, AND TO RETURN TO ONE'S OWN COUNTRY, AND THE RIGHT TO SEEK ASYLUM FROM PERSECUTION;

(b) HUMAN RIGHTS AND POPULATION DISPLACEMENTS

The meeting was called to order at 3.10 p.m.

THE IMPLEMENTATION OF HUMAN RIGHTS WITH REGARD TO WOMEN:

(a) TRADITIONAL PRACTICES AFFECTING THE HEALTH OF WOMEN AND THE GIRL CHILD;

(b) THE ROLE AND EQUAL PARTICIPATION OF WOMEN IN DEVELOPMENT

(agenda item 5) (continued) (E/CN.4/Sub.2/1998/L.29, L.30 and L.32)

Draft resolution on women and the right to land, property and adequate housing (E/CN.4/Sub.2/1998/L.29)

1. Mr. ALFONSO MARTINEZ said he warmly welcomed the draft resolution. Its text could, however, be tightened with a few amendments. In paragraph 2, women's rights might actually be jeopardized if the phrase "the legally recognized rights of women" were retained; it should be replaced by "women's rights".

2. Since Governments always found it difficult to change customs and traditions, paragraph 3 should be amended to read:

> "Urges Governments to take all necessary measures to amend and/or repeal laws and policies pertaining to land, property and housing which deny women security of tenure and equal access and rights to land, property and housing, to encourage the transformation of customs and traditions which deny women such rights and to adopt and enforce legislation which protects and promotes women's rights to own, inherit, lease or rent land, property and housing."

3. In paragraph 6, "Suggests that" should be replaced by "Calls upon", with the consequent grammatical changes later in the paragraph. In paragraph 8, the word "mandate" should be followed by the phrase "and in coordination with the proper United Nations system bodies". Lastly, "Requests" and "Suggests" at the beginning of paragraphs 9 and 10 should both be replaced by "Invites": the Sub-Commission was not a subordinate body that needed to address its peers through the Secretary-General.

4. Mr. WEISSBRODT, speaking as a sponsor of the draft resolution, said he considered the proposed amendments constructive and was able to accept them.

5. The draft resolution, as orally amended, was adopted.

Draft resolution on traditional practices affecting the health of women and the girl child (E/CN.4/Sub.2/1998/L.30)

6. The CHAIRMAN announced that Mr. Alfonso Martínez, Ms. Hampson and Mr. Yokota had become sponsors of the draft resolution.

7. The draft resolution was adopted.

Draft resolution on the situation of women in Afghanistan
(E/CN.4/Sub.2/1998/L.32)

8. Mrs. WARZAZI, introducing the draft resolution, said that the aim was to draw attention to the fact that, in their treatment of women, the Taliban were running counter to the precepts of Islam. Religion must not be diverted from its true purpose by extremist groups. The draft resolution did not address the political aspect of the situation in Afghanistan; that was why it had been introduced under agenda item 5 rather than agenda item 2.

9. There were a number of revisions to be made to the text. Since some people had pointed out the risk of duplicating the work of the Commission, the following should be inserted as the final preambular paragraph:

> "Aware of the fact that the Commission on Human Rights has received at its fifty-fourth session the report of the Special Rapporteur on Afghanistan, which dealt in general with the situation of human rights in that country, including briefly the situation of women, but considers that the Commission on Human Rights should give more attention to human rights in relation to women and girls, as requested in the Beijing Declaration and Platform for Action,".

10. In deference to the views of some members, of the Sub-Commission, the phrase "in accordance with the Holy Koran" should be deleted from the sixth preambular paragraph, the seventh preambular paragraph should be deleted in its entirety and paragraph 4 should be revised to read "Calls upon Muslim religious leaders ...".

11. Mr. ALFONSO MARTÍNEZ said that the Sub-Commission had every right to adopt its own resolutions, without worrying whether it was duplicating the work of the Commission. He was, however, extremely concerned that the draft resolution had been submitted under agenda item 5: the issue related to a specific country and should therefore be dealt with under agenda item 2 or under the procedure governed by Economic and Social Council resolution 1503 (XLVIII). While he would support the draft resolution, he insisted that no precedent of slipping draft resolutions in under an inappropriate agenda item should be established.

12. Mrs. WARZAZI said that there was nothing untoward in submitting the draft resolution under agenda item 5. The intention was simply to draw attention to the plight of women in a situation which tarnished the reputation of Islam.

13. Mr. EIDE said he warmly welcomed the draft resolution. Those members of the Sub-Commission who were not experts on Islam looked to their Muslim colleagues to ensure that the references to Islam were correct.

14. Mr. KHALIL said he could assure the Sub-Commission that the sufferings to which Afghan women being were subjected ran counter to the spirit of Islam.

15. Mr. MEHEDI said, with reference to paragraph 2, that Afghan women suffered not only from the prohibitions placed upon them but also from terrorist action.

16. Mr. TANDAR (Observer for Afghanistan) said that the parts of his country controlled by the Taliban were the only place in the world where violating human rights was a declared, and implemented, policy. Women were denied the right to work, education or health. They were not allowed to walk in the street, use public transport, go shopping, wash their clothes in the river, get clothes made by a tailor, wear lipstick or high-heeled shoes or go to public baths. The Taliban saw women as the incarnation of evil, existing only to satisfy men's sexual needs. If they disobeyed the rules they were publicly humiliated or stoned.

17. The Taliban had recently closed down all the clandestine schools and workshops started by women. All the non-governmental organizations (NGOs) helping women, particularly widows, had been expelled. Many women had been forced into prostitution. It was essential to come to the assistance of the millions of Afghan women who rejected a barbarism that belonged to another age. In a hopeful sign, they had shown great solidarity in demanding their rights to equality, indeed to life itself.

18. It could not be that geopolitical and financial interests were so pressing that the heart-rending cries of Afghan women would be ignored. The smell of blood should overcome that of oil. He called on the whole world community to act to recover Afghan's rights. There was no place in Afghanistan for the ideology of the Taliban, who were foreign to the Afghan people, trained and supported by foreign forces. The resolution would send a clear signal that the world would not tolerate such practices on the eve of the twenty-first century.

19. The draft resolution, as orally revised, was adopted.

CONTEMPORARY FORMS OF SLAVERY (agenda item 6) (continued)
(E/CN.4/Sub.2/1998/L.26 and L.31)

Draft resolution on systematic rape, sexual slavery and slavery-like practices during armed conflict, including internal armed conflict
(E/CN.4/Sub.2/1998/L.26)

20. The CHAIRMAN said that Mr. Yimer and Mr. Mehedi had become sponsors of the draft resolution.

21. Mr. ALFONSO MARTÍNEZ welcomed the draft resolution. As he had stated previously, however, he thought that the Sub-Commission should not limit itself to condemning those gross violations "during armed conflict", but should do so in any situation.

22. The amendments he wished to propose had been discussed with Ms. McDougall and should not prove too controversial. In the third preambular paragraph, the words "the provisions of" should be inserted after "Welcoming"; in paragraph 2, the words "in particular during armed conflicts and" should be inserted immediately before the words "including all acts of rape and sexual slavery"; in paragraph 3, the words "in all circumstances" should be added at the end of the last sentence; in paragraph 5, the word "relevant" should be

inserted before the words "international criminal law" and the words "as international crimes" deleted (in order to cover situations where States did not recognize the violations as international crimes but only as crimes prosecutable under domestic law); in paragraph 7, the words "internationally accepted norms" should be replaced by the words "their international obligations" for the sake of consistency with paragraph 9; and in paragraphs 10 and 14, the words "the International Tribunal for Rwanda and the International Criminal Tribunal for the former Yugoslavia" should be replaced by the words "established international tribunals" to cover any other international tribunal which might be applicable in a specific case.

23. Mr. YOKOTA and Mr. PARK, speaking as sponsors of the draft resolution, said they could accept Mr. Alfonso Martínez's amendments.

24. The draft resolution, as orally amended, was adopted.

Draft resolution on the report of the Working Group on Contemporary Forms of Slavery (E/CN.4/Sub.2/1998/L.31)

25. Mrs. WARZAZI, introducing the draft resolution, said she had one small change to make. The word "regulate", in paragraph 24, should be replaced by the word "combat". She hoped that the draft resolution would be adopted "unanimously" rather than merely "by consensus".

26. Mr. ALFONSO MARTÍNEZ asked to be included as a sponsor of the draft resolution.

27. The draft resolution, as orally revised, was adopted.

Draft resolution on the United Nations Voluntary Trust Fund on Contemporary Forms of Slavery

28. Mrs. WARZAZI said she apologized for missing the deadline for submission of the draft resolution in time for it to appear as a sessional document. She recognized the importance of adhering to procedure, but hoped that the text, which she read out, could still be adopted. Kuwait had already pledged US$ 25,000 to the Fund and, in order to encourage contributions from individuals, she would set an example by making a personal annual donation of US$ 500.

29. Mr. WEISSBRODT said that he did not object to an exceptional change of procedure in view of the uncontroversial nature of the draft resolution in question.

30. The CHAIRMAN said he echoed Mrs. Warzazi's plea to States and individuals to contribute generously to the United Nations Voluntary Trust Fund on Contemporary Forms of Slavery.

31. The draft resolution was adopted.

HUMAN RIGHTS OF INDIGENOUS PEOPLES:

(a) INDIGENOUS PEOPLES AND THEIR RELATIONSHIP TO LAND (agenda item 7) (continued) (E/CN.4/Sub.2/1998/L.27, L.33, L.34 and L.35)

Draft resolution on the study on indigenous land rights (E/CN.4/Sub.2/1998/L.27)

32. The draft resolution as adopted.

Draft resolution on the study on treaties, agreements and other constructive arrangements between States and indigenous populations (E/CN.4/Sub.2/1998/L.33)

33. The draft resolution was adopted.

Draft resolution on the International Decade of the World's Indigenous People (E/CN.4/Sub.2/1998/L.34)

34. Mr. ALFONSO MARTÍNEZ, introducing the draft resolution, said that, in view of the critical state of the Voluntary Fund for the Decade, the Secretariat had suggested that a new paragraph be inserted between existing paragraphs 5 and 6 to read:

> "Urges Governments and intergovernmental and non-governmental organizations to contribute to the Voluntary Fund for the Decade established by the Sub-Commission and invites indigenous organizations to do likewise."

35. The draft resolution, as orally revised, was adopted.

Draft resolution on the Working Group on Indigenous Populations (E/CN.4/Sub.2/1998/L.35)

36. The draft resolution was adopted.

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING POLICIES OF RACIAL DISCRIMINATION AND SEGREGATION AND OF APARTHEID, IN ALL COUNTRIES, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES: REPORT OF THE SUB-COMMISSION UNDER COMMISSION ON HUMAN RIGHTS RESOLUTION 8 (XXIII) (agenda item 2) (continued)

Statement on the situation in Kosovo

37. The CHAIRMAN read out a draft statement entitled "Sub-Commission expresses concern over the recent human rights situation in Kosovo (Federal Republic of Yugoslavia)". He hoped that the members of the Sub-Commission would be able to give it their unanimous support:

> "The Sub-Commission expresses its serious concern about the rapidly deteriorating human rights situation in Kosovo (Federal Republic of Yugoslavia) where ethnic hostilities have claimed hundreds of lives,

and have resulted in the displacement of over 10 per cent of the population of Kosovo. The burning of towns and villages, the destruction of property, and the continuing threat of violence against the civilian population of Kosovo has forcibly displaced up to 250,000 persons from their homes, resulting in a serious refugee crisis within the region. The Sub-Commission wishes to make a contribution toward resolving the crisis in Kosovo, in order to ensure the full protection of human rights, and in order to address adequately the problematic refugee situation caused by endemic violence. The Sub-Commission expresses its great appreciation for international humanitarian organizations working to alleviate the refugee crisis in Kosovo, including the United Nations High Commissioner for Refugees and the International Committee of the Red Cross, and expresses its strong support for these organizations as they work to repair the severe and widespread damage which has resulted from ethnic violence in Kosovo.

"In making this statement, the Sub-Commission hopes to join in these efforts in order to contribute toward the achievement of peace and the protection of human rights in Kosovo. The Sub-Commission calls for the immediate lifting of the limitations upon political freedoms within Kosovo to the extent possible in times of armed conflict. The Sub-Commission wishes to express its strong condemnation of all acts of violence within Kosovo, including the killings and beatings of civilians, hostage-taking, as well as those violations of human rights perpetrated by persons who are or are not affiliated with the State. The Sub-Commission supports all the negotiations which should lead to a peaceful and equitable solution for the protection of the human rights of the people of Kosovo."

38. Mr. KARTASHKIN said that he had had great difficulty in agreeing to the compromise text. The statement merely duplicated the work of other United Nations organs and it also failed to address crucial issues such as the preservation of the territorial integrity of Yugoslavia and the condemnation of terrorist acts.

39. Mr. SORABJEE said that, while he recognized the efforts that had been made to achieve a consensus text, he also wished to make his reservation known. The absence of any condemnation of terrorist acts made the statement somewhat imbalanced.

40. Mrs. WARZAZI said that she, too, had not been completely satisfied with the text. It was important, however, that attention be drawn to the tragic situation in Kosovo.

41. The draft statement, as read out by the Chairman, was adopted by consensus.

FREEDOM OF MOVEMENT

(a) THE RIGHT TO LEAVE ANY COUNTRY, INCLUDING ONE'S OWN, AND TO RETURN TO ONE'S OWN COUNTRY, AND THE RIGHT TO SEEK ASYLUM FROM PERSECUTION;

(b) HUMAN RIGHTS AND POPULATION DISPLACEMENTS

(agenda item 10) (E/CN.4/Sub.2/1998/35, E/CN.4/Sub.2/1997/22 and 23)

42. Mr. FATTORINI (Movement against Racism and for Friendship among Peoples) said that the number of displaced persons in Colombia had reached alarming proportions: in the past four years more than 1 million persons had been subject to displacement, the vast majority of them leaving the countryside for the large towns, where they often lived in slums, without proper accommodation or work. That situation was the result of a deliberate strategy on the part of the armed forces which terrorized populations either directly or through paramilitary groups operating with impunity outside the law. The main purpose was the possession of the land and of natural resources, and there was a clear convergence between that strategy and the interests of powerful Colombian economic and financial groupings.

43. It was a similar story in Indonesia, where people were forced to move from the densely populated islands of Java, Bali and Madura to the less densely populated larger islands. It was not only the displaced persons who became victims but also the natives of the islands to which they were sent, who were not consulted in advance and whose lands were confiscated and redistributed without their consent. In 1997, thousands of Dayak people in Kalimantan had been killed by the army when it intervened to prevent them from killing and driving out migrants from Madura.

44. In Myanmar, tens of thousands of people had been affected by the displacement of villages to make room for tourist development and industrial projects or for reasons of military control. For more than four decades, the authorities in Beijing had been settling millions of Chinese in Tibet with the result that the Tibetans had lost their land and suffered inestimable damage to their social structure. Travelling people, such as Gypsies, were often rejected by the settled population and subjected to legal restraints by local authorities.

45. The thirst for power and the geopolitical ambitions of outsiders, as well as extreme poverty and famine, were the main factors in Afghanistan, the Sudan, the Great Lakes region and the Balkans. There was clearly a need to establish a permanent working group on population displacements as the only means of monitoring and assessing the situation within a global perspective.

46. Mr. FAN Guoxiang, Vice-Chairman, took the Chair.

47. Ms. SHARFELDDIN (International Organization for the Elimination of All Forms of Racial Discrimination), having condemned the illegal actions and flagrant violations perpetrated by Israel in confiscating Palestinian land, building settlements, demolishing homes, uprooting trees, detaining prisoners without due process and restricting movements, said that one of the most

flagrant violations of all was the law of return of Israelis but not of Palestinians. The sham peace process had proved to be damaging to all parties concerned, and demonstrated that the pretence of peace was worse than no peace. It would lead sooner or later to a devastating war.

48. No matter how powerful and resourceful Israel was, it could not simply swallow up and absorb the ancient area in which it was located. The support of the United States of America would not last for ever because the people of that country would not permit it. The international community should stand together against the wild ambitions of a few fanatical Jews and their followers. There was no solution to the tragedy other than the establishment of a democratic, non-sectarian State in which Jews, Christians and Muslims would cooperate.

49. Ms. MANN (Liberation) said that nearly one third of the Tamil people of Sri Lanka had been displaced. Two thirds of the 1 million internally displaced people lived in the Jaffna peninsula, causing humanitarian crises that were hidden from the international community by the Sri Lankan Government's comprehensive and long-standing military censorship and news blackout.

50. Large-scale military offensives in the Tamil areas, had resulted in many deaths of civilians, the destruction of civilian dwellings, hospitals, schools and more than 1,500 temples and churches. An eight-year economic embargo banning the supply of food and medicines to Tamil areas was in clear violation of the Geneva Convention and a war crime. It was noteworthy that Sri Lanka had abstained from voting for the statute to establish an International Criminal Court.

51. Her organization appealed to the Sub-Commission to ask the Special Representative of the Secretary-General on internally displaced people to make a return visit to Sri Lanka to investigate the plight of the internal refugees there, and to call on the Government of Sri Lanka to adhere to his recommendations and remove all the impediments that were causing such severe hardship and suffering to the displaced persons. It also requested the Sub-Commission to visit the Tamil homeland and to insist that no country should forcibly return Tamil refugees seeking asylum to the very situation they were endeavouring to flee.

52. Mr. KHAN (European Union of Public Relations) said that Pakistani-occupied Kashmir was ruled by Pakistan but presented as an independent State. While a great deal of international attention was focused on the situation in Indian-held Jammu and Kashmir, confusion and ignorance of the facts were allowed to persist regarding the state of affairs in Pakistani-occupied Kashmir, the biggest region of which, the Northern Areas, was cut off from the rest and administered directly by the Government of Pakistan through a commissioner.

53. The façade of self-rule for Pakistani-occupied Kashmir did not apply to the Northern Areas, where there was no representative democracy worthy of the name, and where the people were deprived not only of freedom of movement but also of fundamental rights. The Northern Areas continued to be economically neglected, having no universities or medical and engineering colleges.

54. The whereabouts of one veteran political and human rights activist from the region, who had been harassed and threatened after attending the 1997 session of the Commission on Human Rights, had been unknown for the past eight months, prompting fears for his life. His probable fate demonstrated how far the Pakistani secret services were prepared to go to silence democrats and human rights activists.

55. His case had been taken up because of his association with the Commission on Human Rights, but there were hundreds like him who could neither leave Pakistani-occupied Kashmir nor return to it and live there in a dignified manner.

56. His organization appealed to the Sub-Commission to do everything it could to restore to the people of Pakistani-occupied Kashmir, and especially the Northern Areas, the right to leave the territory and return there without intimidation.

57. Ms. BARTHER (Prison Fellowship International), speaking on behalf of Christian Solidarity Worldwide, said that the displacement of populations not only constituted a serious human rights violation in itself but also provided the context for many other serious human rights violations. The removal of rural populations from their land robbed them of their primary economic base, exposed them to malnutrition and disease, and often destroyed or divided communities and families.

58. In the southern Sudan, 5 million out of an estimated population of 8 million people had been displaced, largely as a result of the terror campaign orchestrated by the Government of Sudan, which had sought both to coerce the people of the South into submission and to clear fertile and oil-rich lands of their population. That Government's denial to the Sub-Commission of its involvement in the raids that had taken place in May 1998 was contrary not only to the evidence of the victims, but also to the previous admissions of its own representatives. Its Ambassador to the United Kingdom had conceded on television that it had indeed been a government-sponsored raid, and he had since repeated that admission to the media.

59. Victims of such raids, who had had to seek refuge in peace camps in government-controlled areas, reported that they were required to accept Islamic practices in order to receive food. A particularly invidious form of population displacement was that of armed abduction into slavery which targeted children, who could be most easily reoriented into a different cultural, linguistic and religious setting.

60. Her organization called upon the international community to engage wholeheartedly in efforts to achieve peace in the Sudan and to prevent the Government from pursuing the policies causing such large population displacements and suffering. If such policies continued, sanctions of increasing severity should be imposed, including, if necessary, arms and oil embargoes and air exclusion zones.

61. She also drew attention to the immense suffering inflicted through forced displacement in Myanmar. Tens of thousands of members of ethnic

minority groups had been forced to take refuge in camps on the Thai-Myanmar border as a direct result of conflict and the oppression of minorities. Those remaining in the villages lived in fear of raids, which could be accompanied by arrest for forced labour, torture, rape and even murder. Many individuals had been rounded up and forced into "relocation camps".

62. Even in the border camps in Thailand, refugees remained at risk from attack by Myanmar Government troops and the Democratic Karen Buddhist Army, a militia backed by the ruling junta. Although there were plans to repatriate them, the refugees were unwilling to return to their homes because of continued reports from across the border of the burning of their villages, forced portering, killings, torture and insufficient food and medical supplies. The Office of the United Nations High Commissioner for Refugees should establish an effective presence in the area and carry out its protection mandate.

63. She urged the United Nations to do everything possible to find a political solution in Myanmar. No repatriation should take place until a genuine settlement had been reached that ensured the safety of returnees, the withdrawal of troops and unrestricted access for human rights monitors and humanitarian agencies. In particular, the international community should intensify pressure on the Government to open all areas of Myanmar, particularly the sites reputed to hold "relocation camps", to the Special Rapporteur on the situation of human rights in Myanmar, to other human rights monitors and to humanitarian workers.

64. Ms. VIDYASEKHAR (Afro-Asian Peoples' Solidarity Organization) said that inter-State and intra-State conflicts were resulting in large-scale population displacements, causing intense physical and mental suffering as people were driven from their homes and forced to seek political asylum in alien lands.

65. The people of Afghanistan had never allowed any outsider, however powerful, to subjugate them. An interminable fratricidal war had led, however, to the virtual disintegration of the country. The machinations of a neighbouring country were largely responsible. Pakistan had trained and funded the Taliban, supplying them with weapons and political and moral support. As a result, hundreds of thousands of Afghans had been internally displaced and thousands had sought asylum abroad.

66. Pakistan had been sending mercenaries to create trouble in Jammu and Kashmir in India, using the twin weapons of religious fundamentalism and terrorism to wage a proxy war in pursuit of its political agenda. The entire minority community of Kashmiri Hindus had fled in what looked like a case of deliberate ethnic cleansing. Thousands of Muslim families had also sought refuge in other parts of India.

67. The Sub-Commission should identify and censure the States or terrorist organizations that engendered and supported displacement and sought to derive benefit from it and should take urgent steps to alleviate the sufferings of the displaced persons.

68. Mr. SORABJEE said that a State's refusal to issue a passport to one of its citizens was, at least potentially, a violation of article 12,

paragraphs 2 and 4, of the International Covenant on Civil and Political Rights. Even in ostensibly democratic countries, the granting or refusal of a passport was viewed as a prerogative of the State. That was fallacious thinking, however, because possession of a passport was intimately bound up with the right to leave one's country and return to it.

69. The Supreme Court of India had ruled that the right to obtain a passport was implicit in the right to travel and a law had consequently been enacted whereby the refusal or impounding of a passport was permissible only on certain grounds, with a right of appeal to a quasi-judicial body. Such legislation should exist in all countries. The grounds for denying or withdrawing a passport would normally include the risk of flight from due process or the need to protect national interests.

70. In some cases, the denial of a passport amounted to a restriction on freedom of expression as, for example, when dissidents or critics of government policy were prevented from travelling and airing their views abroad. He suggested that the Sub-Commission should undertake a comparative study of national legislation on the issue of passports and visas, perhaps as a follow-up to Mr. Boutkevitch's working paper on the right to freedom of movement and related issues (E/CN.4/Sub.2/1997/22).

71. Mr. Guissé resumed the Chair.

72. Ms. HAMPSON said that the Turkish legal system recognized certain circumstances in which sections of the population could be moved, for instance in the event of a natural disaster. According to official figures, there were at least 2 million internally displaced people in Turkey, but no legal provision had been invoked for their displacement. While some had undoubtedly been victims of violence and intimidation by the Kurdish Workers' Party (PKK), most of them had been burnt out of their homes by the security forces or intimidated into flight when the houses of fellow villagers were destroyed.

73. The European Commission of Human Rights and the European Court of Human Rights had found that the conditions in which some homes had been destroyed by the security forces constituted degrading treatment, for example in the case of Mentes et al. v. Turkey, in which women were forced to flee barefoot with their scantily clad children, and the case of Asker and Selçuk v. Turkey, in which an elderly couple were ill-treated as they sought to save their property from destruction.

74. Displaced villagers were forced to live in overcrowded urban areas where no suitable employment was available. When seeking compensation for the destruction of their homes and property, it was extremely important that the applicants did not seek compensation for the value of their land. As they had not been expropriated and retained their title deeds, they had the right of access to their land and should be able to return home.

75. The European Court of Human Rights had found that the security forces were responsible for the lack of security which the Government used as a pretext to prevent the displaced villagers from returning home. It was a subversion of legal principles for a State to ignore its own laws when they proved to be inconvenient. While there was a voluntary fund from which people

could seek ex gratia payments and the administrative courts could provide redress if damage was caused by the PKK or had occurred during an armed clash, the European Commission and Court of Human Rights had found that there was no effective remedy for destruction at the hands of the security forces. The pattern was one of inadequate investigation and lack of prosecution.

76. She urged the Turkish authorities to take effective action to prevent the security forces from deliberately destroying property and intimidating villagers into flight, to investigate all allegations thoroughly and effectively, and to bring criminal proceedings against suspected perpetrators. She further urged the authorities to take prompt and effective measures to ensure that villagers who wished to do so could return home in safety and to assist in rebuilding the village infrastructure. Lastly, it was in the interest of both the villagers and the Turkish authorities that effective redress should be available within Turkey.

77. Mr. BHAN (International Institute for Peace) said that, as a result of the proxy war being waged by Pakistan in Jammu and Kashmir, the entire minority community in Kashmir known as the "Pandits" had been driven from their homes and herded together in makeshift camps in other parts of India. Organizations that had direct or indirect links with the militants had made pleas in international forums for the return of the Pandits but, even when such bodies were sincere, they had little influence on the gunmen. He described massacres of villagers that had occurred in April and August 1998 in Jammu and Himachal Pradesh. Other terrorist attacks were a regular occurrence.

78. In recent years, Afghanistan had been the victim of a similar blend of religious fundamentalism and terrorism. Moreover, extremist attacks were being launched from Afghanistan and Pakistan on many central Asian republics. The terrorist centres were funded by extremist Islamic parties and movements and supplied with arms, money and food by supporters in Pakistan.

79. A respected Pakistani journal, The Herald Annual, had provided an eyewitness account in January 1998 of the widespread activities within the country of the foremost terrorist organization, Lashkar-e-Taiba, which trained soldiers for active service in Kashmir, Afghanistan and other countries. The head of the organization had thanked the Pakistani Government for its assistance.

80. If terrorism sponsored by a particular State was responsible for population displacement, the Sub-Commission had a duty to take firm action to rectify the situation.

81. Ms. SCHILT (Association of Refugees and Displaced Persons of Bosnia and Herzegovina) said that no solution had yet been found for 600,000 of the 1.3 million people who had sought refuge abroad from the war in Bosnia and Herzegovina. Of the over 1 million internally displaced persons, only 45,000 had returned to areas in which they were in the minority and they faced personal danger, ill-treatment, outbreaks of ethnic violence and damage to their property.

82. Most of the remaining 1.5 million refugees and displaced persons would form part of a minority if they returned home. Moreover, institutional and other impediments continued to hamper their return. They were forced to live in makeshift accommodation and overcrowded refugee camps and collective centres. The situation was deteriorating and more and more returnees from abroad were unable to find any shelter. Those who could not return to their pre-war homes were allowed, at best, to visit their places of origin for a few hours.

83. At the same time, refugee host countries, particularly Germany, continued to press for repatriation. Most of the 60,000 refugees to be repatriated from Germany in 1998 were Muslims from the Republika Srpska which, in practice, prohibited the return of members of minorities.

84. Her organization appealed to the international community, to intergovernmental and non-governmental organizations involved in the peace process in Bosnia and Herzegovina and to the Sub-Commission to take action to speed up the return of minorities. It called for a robust response from the international community to the violence being perpetrated against minority returnees, an improved security network for returnees and a stop to deportations when a refugee's home municipality was not open to minority returns. There could be no reconciliation or lasting peace in Bosnia and Herzegovina without the return of all refugees and displaced persons to their own homes.

85. Mr. WARIKOO (Himalayan Research and Cultural Foundation) urged the Sub-Commission to examine the role of religious extremism, mercenaries and terrorists in causing displacement in South and Central Asia. Four hundred thousand displaced members of the Hindu minority in Kashmir were languishing in camps in other parts of India as a result of terrorism and religious extremism.

86. The displacement of the Hindu minority had long-term implications for the socio-cultural composition and secular polity of Kashmir. Brutal killings of Hindus had continued in 1998, triggering a renewed exodus. The perpetrators in all cases were Islamist terrorists and mercenaries supported by Pakistan, who were bent on cleansing the State of Jammu and Kashmir of its non-Muslim minorities.

87. He called upon the Sub-Commission to take appropriate steps to ensure that States aiding and abetting such activities were taken to task.

The meeting rose at 6 p.m.